

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PAUL FANELLI,

Plaintiff,

v.

LANSDALE BOROUGH, et al.,

Defendants.

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CIVIL ACTION

No. 15-240

ORDER

AND NOW, this 15th day of December, 2016, upon consideration of Defendants, Lansdale Borough (“Lansdale”), Officer David Gori (“Officer Gori”), Officer James Owens (“Officer Owens”), and Officer Richard McCarrick’s (“Officer McCarrick”) (collectively “Defendants”) Motion for Partial Summary Judgment and Memorandum of Law in Support thereof pursuant to Federal Rule of Civil Procedure 56 (Doc. No. 35), Plaintiff, Paul Fanelli’s (“Plaintiff”) Response in Opposition thereto, and Defendants’ Reply, it is hereby **ORDERED** that the Motion is **GRANTED IN PART** and **DENIED IN PART**.

IT IS FURTHER ORDERED that:

1. Defendants’ Motion is **DENIED** as to Count I against Officer Owens asserting excessive force.
2. For Count II, alleging failure to intervene, Defendants’ Motion is **GRANTED** as it relates to Officer McCarrick, but it is **DENIED** as it pertains to Officer Owens.
3. Defendants’ Motion is **GRANTED** as to Count III alleging a conspiracy.
4. Defendants’ Motion is **DENIED** as to Count IV against Officer Owens asserting supervisor liability.
5. Defendants’ Motion is **GRANTED** as to Count V against Lansdale alleging municipality liability.

6. Officer Owens is not entitled to qualified immunity; and
7. Officer McCarrick is entitled to qualified immunity.

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY
SENIOR JUDGE